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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,725	07/07/2003	Gary-Michael Dahl	905,016	7550

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EXAMINER	
CAMPBELL, KELLY E	

ART UNIT	PAPER NUMBER
3618	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/614,725	DAHL, GARY-MICHAEL	
	Examiner	Art Unit	
	Kelly E Campbell	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-3,5-8,10-13 and 15-20 is/are rejected.

7)☒ Claim(s) 4,9 and 14 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,11-13,15-16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl (US 5,476,282) in view of Ware (US 1,618,496).

Dahl teaches a convertible cart (10) for transporting including;

a frame (11);

a first handle (25) connected to the frame (11) adjacent a first end (33) and movable between a position perpendicular to the frame (11) and a second position coplanar with the frame (11), see Figure (2);

a second handle (25a) connected to the frame (11) at a second end (37);

the first handle (25) is rotatable between first and second position about a first axle (27) and the second handle (25a) is rotatable about a second axle (27), see Figure (3);

an elastic cord (66) attached to holes (silent) disposed in the handle (25), for pulling the cart,

a first pair of wheels (17) are connected to the frame (11) adjacent the first end (33) of the frame (11) and the wheels (17) are rotatably mounted to a tubular axle (16);

the primary wheels (17) are said to be pneumatic tires, see Column 5, line 22;

a second pair of wheels (24) are connected to the frame (11) adjacent a second end (37) and each pair of wheels (24) being a pivoting caster interconnected to the frame;

also, frame (11) having a first frame member (12) and a second frame member (13) in telescopic relationship to each other, with each frame having a rectangular configuration and capable of being fixed in either a telescoped position or a retracted position, see Column 4, line 57-58 and Figure 1, by thumbnuts (21) extending through the first and second frame members (12,13) and fixedly engaging the first and second frame members;

the cart (10), also having a first and second stair climber (15) both shown in Figure 2, affixed to and extending directly from an underside of the first frame member (11&12) and in parallel relationship; the first plurality of wheels (17) are positioned adjacent respective outer surfaces of the first and second stair climbers (15),

each caster (24) having a caster frame (shown to be silent in Figure 1-3), pivotally connected to frame (11&22);

each caster frame extends downwardly from frame (11) and the caster is rotatably mounted within the caster frame;

each caster frame including a generally flat surface in parallel relationship with the frame (11) and pivotally connected to the frame (11), Column (5, Line 22-23);

each caster frame including a first and second wing member extending transversely from the flat surface on opposite sides of the flat surface and in a parallel relationship towards the other, (shown to be silent in Figures 1-3);

wherein the cart is described as extending approx. 52 inches in length, and weighing less than thirty-five pounds.

With regards to the cart handles ranging between 8-24 inches for a first handle and 39 inches for a second handle and occupying a volume less than 50 cubic inches, weighing less than 18 pounds, with 1.75 inch thumbnuts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the specific dimensions of the cart size to accommodate loads of various size, since it has been held that discovering an optimum or workable range involves only routine skill in the art. *In re Aller, 105 USPQ 233.*

It would further have been obvious to modify the attachment holes for the elastic cords pulling the vehicle, to be disposed on the tubular wheel axle (23) as opposed to the handle (25) for pulling the cart, as a matter of design choice, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske, 86 USPQ 70.*

With regards to claim 20, the cart taught by Dahl is capable of a multitude of configurations by varying the first and second position of the first and second

handles and adjusting the telescoping frame length to accommodate objects of varied sizes.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl (US 5,476,282), as discussed above for claim 1, and further in view of Ware (US 1,618,496).

Dahl teaches all aspects of the claimed invention as discussed above for claim 1, except a cart having a tubular axle and bearings receiving the axle.

Ware teaches a wheel-mounting configuration, including:

a hub (10), capable of being;

a wheel (6) being rotatable on an axle (1), see Figure 11; the axles being hollow (tubular), see Figure 3;

the hub (10) having a central aperture (defined by openings (12), see Figure 3, and receiving roller bearings (4) therein, see Figure 2;

the roller bearings (2) receiving the axle (1) therein;

and further including a plurality of concentric holes for receiving rivets (18), around the central aperture.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the solid axle and wheel configuration of Dahl with the tubular axle, and roller bearing assembly of as taught by Ware in order to provide greater speed and maneuverability.

With regards to the hub being a polymeric hub, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the material of the hub taught by Ware, to be a polymeric hub, since it has been to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, *In re Leshin*, 125 USPQ 416.

Claims 5-8,10 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahl (US 5,476,282) as applied to claim 1 above, and further in view of Lee (US 5,655,785).

Dahl teaches all aspects of the claimed invention, as discussed above, except Dahl does not teach a cart having wheels that include a thermoplastic tread and a domed configuration.

Lee teaches a wheel-mounting configuration for skates, including:

a hub (61), capable of being a polymeric hub (61), see Column 4, lines 40-41 and having a plurality of concentric holes around the central aperture, see Figures;

the wheel being rotatable on an axle (134), see Figure 11; the axles can be hollow (tubular), see Column 6, lines 19-21;

referring to Figures 3,9 and 10, the wheel tires (80) are thermoplastic treads, see Column 5, lines 14-20 and 38-50; having an outer surface for rolling contact with an underlying surface, see Column 5, lines 14-20;

the outer surface having a domed configuration as shown in Figure 9 or 10.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wheel configuration of Dahl in order to provide a thermoplastic tread and domed wheel configuration in order to provide greater stability, ride quality and to hold the surface of the ground minimizing tilting and skewing.

With regards to claim 23, the recitation: "...the first pair of wheels having outer surfaces no more than eleven inches apart...";

the examiner drew correlations between the dimensions of applicant's invention and the cart frame disclosed by Dahl, since the frame elements appear to be directly proportionate in size, and shape and it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the proportions of the frame of the applicant's invention, since it has been held that discovering an optimum value of result effective variable involves only routine in the art. *In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).*

Allowable Subject Matter

Claims 4,9 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not appear to disclose the cart having the wheel and frame configuration disclosed in claim 4, including a tubular axle having a pair of holes formed therein, the pair of holes receiving a cotter pin therein at an end of the tubular axle outwardly of the wheel.

The prior art does not disclose a cart having a caster frame assembly including a generally flat surface in parallel relationship with the frame; a first wing member extending transversely outwardly from the flat surface on one side of the flat surface and a second wing member extending transversely outwardly from the flat surface on one side of the flat surface, the second wing member extending transversely outwardly from the flat surface and each of the first and second wing members having a plurality of holes formed therein and there through in spaced parallel relationship downwardly from the flat surface.

With regards to claim 14, the prior art does not disclose a second frame member, such that the frame member has an end surface extending between the second plurality of wheels, the end surface having a plurality of holes formed therein and there through, the plurality of holes being spaced in relationship to each other and having a collinear central axes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scheeper teaches the use of a pin for securing a wheel hub to an axle. Chambers teaches the use of a cotter pin for securing a wheel hub to an axle. Johnson teaches the use of a pin and bearing assembly for securing a wheel hub to an axle. Dahl (US 5,228,716) teaches a collapsible cart with stair climbers, and a pair of caster wheels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KEC